

BRACEWELL & GIULIANI

Texas
New York
Washington, DC
Connecticut
Dubai
Kazakhstan
London

Brett Heather Freedson
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202.828.5873 Office

August 13, 2008

By Electronic Filing

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

Re: Emergency Waiver Request of the Aldine Independent School District in
Federal Communications Commission Docket Nos. 02-6 and 96-45

Dear Ms. Dortch:

Attached please find the Emergency Waiver Request of the Aldine Independent School District in Federal Communications Commission Docket Nos. 02-6 and 96-45. Also enclosed are request for waiver attachments A through F.

Please contact me at (202) 828-5873 if you have any questions regarding this waiver request.

Very truly yours,



Brett Heather Freedson
Bracewell & Giuliani LLP

cc: Universal Service Administrative Company,
Schools and Libraries Division
100 South Jefferson Road
P.O. Box 902
Whippany, New Jersey 07981
(without attachments)

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Emergency Request for Waiver by)	
)	
Aldine Independent School District)	Billed Entity No. 141224
Houston, Texas)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	CC Docket No. 96-45

EMERGENCY REQUEST FOR WAIVER

The Aldine Independent School District ("District") hereby submits this Emergency Request for Waiver. The relief sought is necessary to relieve the District of the unfair requirement of repaying over \$2 million to the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") before the District has had the opportunity to be heard on its appeal of the SLD order of repayment.

The due date of the SLD demand for payment is August 18, 2008; the deadline to appeal the SLD ruling to the Federal Communications Commission (the "Commission") is September 15, 2008.

This request arises from the District's E-rate application for Funding Year 2004. The District requests that the Commission grant a waiver of the 30-day deadline for repayment of debt, as well as any consequences of that deadline, including accrued interest, late payment fees, administrative charges, and implementation of 47 C.F.R. § 1.1910 (the "red light rule"), because the District intends to appeal the SLD Administrator's decision, which was issued only one day before issuance of the Demand Payment Letter.

FACTUAL BACKGROUND

For Funding Year 2004, the District applied for E-rate funding of maintenance services for eligible network equipment within District facilities. The District's application was assigned Form 471 Application No. 421086 and Funding Request No. ("FRN") 1160625. After review of the District's application by the SLD Program Integrity Assurance ("PIA") Team, SLD approved the District's application for \$2,299,352.94 in funding and issued a Funding Commitment Decision Letter dated January 11, 2005.¹ The approved funding was disbursed in the normal course of events.

Between the months of September and November of 2006, the District was audited by USAC's Internal Audit Division in regard to its Form 471 Application No. 421086.² On September 19, 2007, SLD issued a Notification of Commitment Adjustment Letter concerning the funds disbursed under that funding application; the attached Funding Commitment Adjustment Report indicated that SLD had adjusted the District's funding to \$0.³ The District filed an appeal with SLD on October 30, 2007.⁴ On July 17, 2008, the District received the USAC Administrator's Decision on Appeal, which denied the District's appeal and notified the District that it had 60 days to appeal the decision to the Commission.⁵ On July 18, 2008, SLD sent to the District a Demand Payment Letter, which stated that repayment of the balance of the debt (i.e., the funds that were the subject of the appeal) was due within 30 days of that letter. It

¹ Exhibit A.

² Exhibit B.

³ Exhibit C.

⁴ Exhibit D.

⁵ Exhibit E.

further declared that failure to pay the debt within 30 days could result in interest, late payment fees, administrative charges, and implementation of the red light rule.⁶

DISCUSSION

The Commission may waive any provisions of its rules for good cause shown at any time.⁷ A rule may be waived where the particular facts make strict compliance inconsistent with the public interest.⁸ In addition, the Commission may take into account considerations of hardship, equity or more effective implementation of overall policy on an individual basis.⁹

A party aggrieved by an action taken by USAC has a right to seek review by the Commission.¹⁰ A party seeking such review has 60 days from the date of the issuance of the USAC decision to file its appeal.¹¹ By issuing its Demand Payment Letter the day after it issued an appealable administrative decision, SLD has placed the District in an unfair and potentially costly position. Specifically, the District has 60 days to file its appeal of the Administrator's decision regarding the funds, yet it could be penalized with interest, fees, administrative charges, and the red light rule if it does not repay the funds within 30 days.

The Commission has stated that the red light rule will not take effect if the applicant has timely filed a challenge through administrative appeal or a contested judicial proceeding to either the existence or amount of the debt owed.¹² A party must be given an "opportunity to contest

⁶ Exhibit F. *See also* 47 C.F.R. §§ 1.1910-1.1911.

⁷ 47 C.F.R. § 1.3.

⁸ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

⁹ *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969), *aff'd by WAIT Radio v. FCC*, 459 F.2d 1203 (D.C. Cir. 1972).

¹⁰ 47 C.F.R. § 54.719(c).

¹¹ 47 C.F.R. § 54.720(a).

¹² *See In the Matter of Schools and Libraries Universal Service Support Mechanism* ("Fifth Report and Order"), CC Docket No. 02-6, Order, 19 FCC Rcd 15808, 15822, para. 43 (2004).

any finding that monies are owed to the fund."¹³ Moreover, USAC itself has represented to the Commission that Demand Payment Letters shall not be issued prior to the close of the appeal window.¹⁴

As explicitly acknowledged by the Commission, schools may encounter difficulties in the repayment of outstanding debts.¹⁵ State and local budgetary and other restrictions may prevent school districts from rapidly releasing substantial amounts of funds and these restrictions should be considered in determining satisfactory repayment options. To that end, the District contacted USAC to request an extension of the repayment period until the Commission has issued a decision on the District's appeal on the merits, or, in the alternative, until the District has had an opportunity to file its appeal with the Commission. Unfortunately, due to time constraints, the District is concerned that it will be unable to resolve this issue with USAC prior to the repayment date, and now finds itself in the unenviable position of having to repay over \$2 million in funding before the Commission has had an opportunity to determine whether such repayment is warranted.

Equity, the effective implementation of Commission policy, and public interest demand that parties such as the District that are aggrieved by a decision of the USAC Administrator should not be required to repay such substantial funds before they have been given the opportunity to fully exhaust their available appeals.

¹³ *Id.*

¹⁴ See *Wireline Competition Bureau Seeks Comment on the Universal Service Administrative Company's Audit Resolution Plan*, CC Docket No. 02-6, Public Notice, 20 FCC Rcd 1064 (Wireline Comp. Bur. 2004).

¹⁵ Fifth Report and Order, 19 FCC Rcd at para. 42.

RELIEF REQUESTED

For the above reasons, the Aldine Independent School District requests that the Commission waive the 30-day debt repayment deadline imposed in the SLD Demand Payment Letter with regard to Form 471 Application No. 421086, as well as any consequences of that deadline, including accrued interest, late payment fees, administrative charges, and implementation of the red light rule, until the District has had an opportunity to appeal the USAC Administrator's decision and the Commission has made a final ruling on the appeal.

Respectfully submitted,

Bracewell & Giuliani LLP

By: 

George M. Foote
Brett Heather Freedson
Bracewell & Giuliani LLP
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Suite 500
Washington, DC 20006-1872
202.828.5800 Telephone
202.223.1225 Facsimile
George.Foote@bgllp.com
Brett.Freedson@bgllp.com

**ATTORNEYS FOR ALDINE
INDEPENDENT SCHOOL DISTRICT**

Waiver Exhibit A



Universal Service Administrative Company
Schools & Libraries Division

FUNDING COMMITMENT DECISION LETTER

(Funding Year 2004: 07/01/2004 - 06/30/2005)

January 11, 2005

APPROVED

Mardee Barnett
ALDINE INDEP SCHOOL DISTRICT
1617 Lauder Road
Houston, TX 77039

Re: Form 471 Application Number: 421086
Funding Year 2004: 07/01/2004 - 06/30/2005
Billed Entity Number: 141224
Applicant's Form Identifier: IC-05

Thank you for your Funding Year 2004 E-rate application and for any assistance you provided throughout our review. Here is the current status of the funding request(s) featured in the Funding Commitment Report at the end of this letter.

- The amount, \$2,299,352.94 is "Approved."

Please refer to the Funding Commitment Report on the page following this letter for specific funding request decisions and explanations.

The Important Reminders and Deadlines immediately preceding this letter are provided to assist you throughout the application process.

NEXT STEPS

- Review technology planning approval requirements
- Review CIPA Requirements
- File Form 486
- Invoice the SLD using the Form 474 (service providers) or Form 472 (Billed Entity)

FUNDING COMMITMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Report for the Form 471 application cited above. The enclosed report includes a list of the Funding Request Number(s) (FRNs) from your application. The SLD is also sending this information to your service provider(s) so preparations can be made to begin implementing your E-rate discount(s) after you file your Form 486. Immediately preceding the Funding Commitment Report, you will find a guide that provides a definition for each line of the Report.

TO APPEAL THIS DECISION:

If you wish to appeal the decision indicated in this letter, your appeal must be received by the SLD or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify which Funding Commitment Decision(s) you are appealing. Indicate the relevant funding year and the date of the FCDL. Your letter of appeal must also include the Billed Entity Name, the

Form 471 Application Number, and the Billed Entity Number from the top of your letter.

3. When explaining your appeal, copy the language or text from the Funding Commitment Report that is at the heart of your appeal, to allow the SLD to more readily understand your appeal and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.
4. Provide an authorized signature on your letter of appeal.

If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal, Schools and Libraries Division, Box 125 - Correspondence Unit, 80 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We encourage the use of either the e-mail or fax filing options.

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, sent to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use either the e-mail or fax filing options.

NOTICE ON RULES AND FUNDS AVAILABILITY

Applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Universal Service Support Mechanism. Applicants who have received funding commitments continue to be subject to audits and other reviews that USAC and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with all such requirements. The SLD may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by the SLD, the applicant, or the service provider. The SLD, and other appropriate authorities (including but not limited to USAC and the FCC), may pursue enforcement actions and other means of recourse to collect erroneously disbursed funds. The timing of payment of invoices may also be affected by the availability of funds based on the amount of funds collected from contributing telecommunications companies.

Schools and Libraries Division
Universal Service Administrative Company

A GUIDE TO THE FUNDING COMMITMENT REPORT

A report for each E-rate funding request from your application is attached to this letter. We are providing the following definitions for the items in that report.

FORM 471 APPLICATION NUMBER: The unique identifier assigned to a Form 471 application by the SLD.

FUNDING REQUEST NUMBER (FRN): A Funding Request Number is assigned by the SLD to each Block 5 of your Form 471 once an application has been processed. This number is used to report to applicants and service providers the status of individual funding requests submitted on a Form 471.

FUNDING STATUS: Each FRN will have one of the following definitions:

1. An FRN that is "Funded" is approved at the level that the SLD determined is appropriate for this FRN. The funding level will generally be the level requested unless the SLD determines during the application review process that some adjustment is appropriate.
2. An FRN that is "Not Funded" is one for which no funds were committed. The reason for the decision will be briefly explained in the "Funding Commitment Decision Explanation." An FRN may be "Not Funded" because the request does not comply with program rules, or because the total amount of funding available for this Funding Year was insufficient to fund all requests.
3. An FRN that is "As Yet Unfunded" reflects a temporary status that is assigned to an FRN when the SLD is uncertain at the time the letter is generated whether there will be sufficient funds to make commitments for requests for Internal Connections at a particular discount level. For example, if your application included requests for discounts on both Telecommunications Services and Internal Connections, you might receive a letter with funding commitments for your Telecommunications Services funding requests and a message that your Internal Connection requests are "As Yet Unfunded." You would receive one or more subsequent letters regarding the funding decision on your Internal Connections requests.

SERVICES ORDERED: The type of service ordered from the service provider, as shown on your Form 471.

SPIN (Service Provider Identification Number): A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support mechanisms. A SPIN is also used to verify delivery of services and to arrange for payment.

SERVICE PROVIDER NAME: The legal name of the service provider.

CONTRACT NUMBER: The number of the contract between the eligible party and the service provider. This will be present only if a contract number was provided on your Form 471.

BILLING ACCOUNT NUMBER: The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on your Form 471.

SERVICE START DATE: The date services were reported to start for this FRN on your Form 471.

CONTRACT EXPIRATION DATE: The date the contract expires. This will be present only if a contract expiration date was provided on your Form 471.

SITE IDENTIFIER: The Entity Number listed in Form 471, Block 5, Item 22a. This will be present only for "site specific" FRNs.

ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE RECURRING CHARGES: Eligible monthly pre-discount amount approved for recurring charges multiplied by number of months of recurring service approved for the funding year.

ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE NON-RECURRING CHARGES: Annual eligible non-recurring charges approved for the funding year.

PRE-DISCOUNT AMOUNT: Amount in Form 471, Block 5, Item 23I, as determined through the application review process.

DISCOUNT PERCENTAGE APPROVED BY THE SLD: The discount rate that the SLD has approved for this service.

FUNDING COMMITMENT DECISION: This represents the total amount of funding that the SLD has reserved to reimburse your service provider for the approved discounts for this service for this funding year. It is important that you and your service provider both recognize that the SLD should be invoiced and the SLD may direct disbursement of discounts only for eligible, approved services actually rendered.

FUNDING COMMITMENT DECISION EXPLANATION: This entry provides an explanation of the amount in the "Funding Commitment Decision."

FUNDING COMMITMENT REPORT

Form 471 Application Number: 421086
Funding Request Number: 1160625 Funding Status: Funded
Services Ordered: Internal Connections
SPIN: 143024617 Service Provider Name: Solid IT Network, Inc.
Contract Number: IC-05
Billing Account Number: N/A
Service Start Date: 07/01/2004
Contract Expiration Date: 06/30/2005
Annual Pre-discount Amount for Eligible Recurring Charges: \$.00
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$2,705,121.11
Pre-discount Amount: \$2,705,121.11
Discount Percentage Approved by the SLD: 85%
Funding Commitment Decision: \$2,299,352.94 - FRN approved; modified by SLD
Funding Commitment Decision Explanation: The dollars requested were reduced to remove the ineligible: Management modules maintenance and the services for Gears Middle School and the PC Encryption Cards.

IMPORTANT REMINDERS & DEADLINES

Date: January 11, 2005
471 : 421086
BEN : 141224

The following information is provided to assist you throughout the application process. We recommend that you keep it in an easily accessible location and that you share it with the appropriate members of your organization.

FORM 486 DEADLINE - The Form 486 must be postmarked no later than 120 days after the Service Start Date you report on the Form 486 or no later than 120 days after the date of the Funding Commitment Decision Letter, whichever is later. If you are required to have a Technology Plan, that plan must be approved by the start of service for this funding year, you must indicate the SLD Certified Technology Approver who approved your plan and you must retain your approval letter and documentation of your monitoring of the progress toward your stated goals.

CHILDREN'S INTERNET PROTECTION ACT (CIPA) - You must be in compliance with CIPA and cannot request a waiver, if FY2004 is your Third Funding Year for the purposes of CIPA.

INVOICE DEADLINE - Invoices must be postmarked no later than 120 days after the last date to receive service - including extensions - or 120 days after the date of the Form 486 Notification Letter, whichever is later. Invoices should not be submitted until the invoiced products and services have been delivered and billed, and (for BEAR Forms) the provider has been paid.

OBLIGATION TO PAY NON-DISCOUNT PORTION - Applicants are required to pay the non-discount portion of the cost of the products and/or services. Service providers are required to bill applicants for the non-discount portion. The FCC has stated that requiring applicants to pay their share ensures efficiency and accountability in the program. If you are using a trade-in as part of your non-discount portion, please refer to the SLD web site.

RETAIN DOCUMENTATION - Applicants must retain documentation, including but not limited to, documents showing:

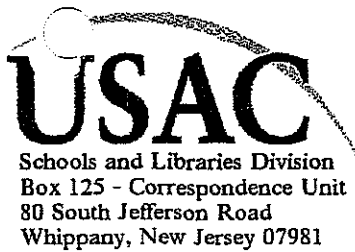
- compliance with all applicable competitive bidding requirements,
- products and/or services delivered (e.g., customer bills detailing make, model and serial number),
- resources necessary to make effective use of E-rate discounts, including the purchase of equipment such as workstations not eligible for support,
- the specific location of each item of E-rate funded equipment, and
- the applicant has paid the non-discount portion.

These documents must be retained and available for review for 5 years.

SUSPENSION AND DEBARMENT - Persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the Schools and Libraries Support Mechanism are subject to suspension and debarment from the program.

FREE SERVICES ADVISORY - Applicants and service providers are prohibited from using the Schools and Libraries Support Mechanism to subsidize the procurement of ineligible or unrequested products and services, or from participating in arrangements that have the effect of providing a discount level to applicants greater than that to which applicants are entitled.

Complete program information - including more information on these reminders - is posted to the Schools and Libraries Division (SLD) web site at www.sl.universalservice.org. You may also contact the SLD Client Service Bureau by e-mail using the "Submit a Question" link on the SLD web site, by fax at 1-888-276-8736 or by phone at 1-888-203-8100.



TIME SENSITIVE MATERIAL

01739
Mardee Barnett
ALDINE INDEP SCHOOL DISTRICT
1617 Lauder Road
Houston, TX 77039



Waiver Exhibit B



Wayne M. Scott
Vice President

Internal Audit Division

September 22, 2006

Aldine Independent School District
Attn: Ms. Rose Chavez
14910 Aldine Westfield Road
Houston, Texas 77032

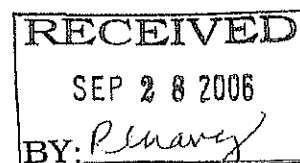
Dear Ms Chavez,

We have engaged KPMG LLP to assist the Universal Service Administrative Company's (USAC) Internal Audit Division in its examination of recipients of Schools & Libraries (S&L) Support Mechanism funds. We plan to conduct a compliance attestation examination of the Aldine Independent School District; Beneficiary Number 141224 located in Houston, TX. between the months of September/October/November. It is anticipated that fieldwork for the examination will take approximately two (2) weeks; however, the efficiency of the examination will depend on the availability of your staff and the condition of the documentation made available prior to and/or during the course of the examination.

The examination will be related to disbursements from the Universal Service Fund during the fiscal year ended September 30, 2005 related to the following:

FUNDING YEAR(s)	FORM 471 NO.	FRN(s)	DOLLAR DISBURSED
2004	421086	1160625	\$2,299,353

A compliance attestation examination requires management of your organization to sign a letter acknowledging its responsibility for compliance with applicable requirements of 47 C.F.R. Sections 54.500 through 54.523 of the Federal Communications Commission's ("FCC") Rules and Regulations for Universal Service Support for Schools and Libraries, as amended, and related FCC Orders ("Rules and Orders"); and make specific assertions relative to your organization's compliance with those Rules and Orders. An example of the letter which will be required is attached to this notification letter. Under *Government Auditing Standards* and AICPA Attestation Standards (Section AT 601), your organization should also perform an evaluation of the District's compliance with the Rules and Orders to support your ability to make the assertions. A management representation letter will also be required at the end of the examination. The form of that letter will be discussed when the engagement commences.



For your information and use, the examination program will be managed by the below USAC and KPMG personnel.

NAME	COMPANY	POSITION	PHONE NUMBER	EMAIL
Wayne M. Scott	USAC	Vice President, Internal Audit	202-776-0200	wscott@usac.org
Leslie Bellavia	USAC	Manager, Internal Audit	202-776-0200	lbellavia@usac.org
Joseph M. Crostic	KPMG	Lead Engagement Partner	703-286-8786	jcrostic@kpmg.com
Julie Albright	KPMG	Engagement Director	703-286-8244	jalbright@kpmg.com
John Fenstermaker	KPMG	Engagement Manager	703-286-8341	jpfenstermaker@kpmg.com

Additionally, KPMG will have 2-3 other examiners actually performing the examination work. These individuals will be identified, as we get closer to the site visit.

Emphasis during the examination will be placed on the eligibility of products and services, discount calculations, technology plans, service provider selection, support for reimbursements, physical identification of any equipment acquired and other related areas. Please find attached a listing of documents KPMG will need to facilitate our examination.

KPMG will be required to gain an understanding of your internal control environment relative to Schools and Libraries program management. Attached to this letter are internal control questionnaires designed to provide a basis for gaining that understanding. These questionnaires need to be returned to KPMG along with other documents requested within two weeks of receipt of this letter.

In addition, for KPMG to perform their examination efficiently and successfully, your assistance in providing the below support will be appreciated:

- Requested documents, to arrive at KPMG LLP within two weeks of receipt of this letter.

KPMG LLP
1660 International Drive
McLean, VA 22102
ATTN.: John P. Fenstermaker

- Office space for approximately 4 examiners to perform their examination (to include Internet connectivity).
- Access to office space for a 10-hour period during the workday, if possible.
- Notification of any days the building that KPMG will be working in will not be available, due to holidays or other reasons.

- Advice on the dress code for your office.

Please recognize that KPMG has equal access as USAC Internal Audit Department to request and view documents.

A KPMG manager (or other designated team member) will contact you directly to inform you of the date they are planning to be on-site. At this time, they will discuss the attached document requests so that any questions/issues can be addressed before the examiners are on site. Also, KPMG will conduct a "kick-off" meeting during the first day of being on-site, if possible, to discuss the examination, project objectives, coordination, etc. with those key individuals that are involved in your Schools and Libraries program / process.

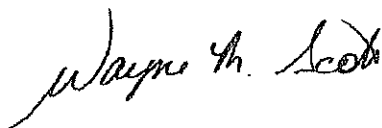
At the completion of KPMG's examination, KPMG will conduct a final closing meeting to discuss the results of the examination and to receive your representation letter.

The results of KPMG's work, as well as your comments received during the final meeting, will be presented in a draft report to USAC and the FCC OIG. Upon review and approval of the report by USAC Management and the FCC OIG, the report will be distributed to appropriate parties.

The following URL provides some additional information to assist your understanding of this examination: <http://www.sl.universalservice.org/reference/bestpractices.asp>.

If there are any matters or issues that you would like to make us aware of, or if you have any questions or concerns, please feel free to call Leslie Bellavia or myself using the contact information above.

Sincerely,



Wayne M. Scott
Vice President, Internal Audit Division
Universal Service Administrative Company

4 Attachments:

- A. List of Documentation to be Provided to KPMG by Two (2) Weeks of Receipt of This Letter
- B. List of Review Documentation to be Provided to KPMG Upon Arrival
- C. Example Assertion Letter
- D. Internal Control Questionnaire

CC: KPMG LLP

Waiver Exhibit C



Schools & Libraries Division

Notification of Commitment Adjustment Letter

Funding Year 2004: 7/01/2004 - 6/30/2005

September 19, 2007

**Mardee Barnett
ALDINE INDEP SCHOOL DISTRICT
1617 Lauder Road
Houston, TX 77039 3028**

**Re: Form 471 Application Number: 421086
Funding Year: 2004
Applicant's Form Identifier: IC-05
Billed Entity Number: 141224
FCC Registration Number: 0011612090
SPIN Name: Solid IT Networks, Inc.
Service Provider Contact Person: Oliver Newman**

Our routine review of Schools and Libraries Program funding commitments has revealed certain applications where funds were committed in violation of program rules.

In order to be sure that no funds are used in violation of program rules, the Universal Service Administrative Company (USAC) must now adjust your overall funding commitment. The purpose of this letter is to make the adjustments to your funding commitment required by program rules, and to give you an opportunity to appeal this decision. USAC has determined the applicant is responsible for all or some of the program rule violations. Therefore, the applicant is responsible to repay all or some of the funds disbursed in error (if any).

This is NOT a bill. If recovery of disbursed funds is required, the next step in the recovery process is for USAC to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of the Demand Payment Letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." Please see the "Informational Notice to All Universal Service Fund Contributors, Beneficiaries, and Service Providers" at <http://www.universalservice.org/fund-administration/tools/latest-news.aspx#083104> for more information regarding the consequences of not paying the debt in a timely manner.

TO APPEAL THIS DECISION:

If you wish to appeal the Commitment Adjustment Decision indicated in this letter, your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify the date of the Notification of Commitment Adjustment Letter and the Funding Request Numbers you are appealing. Your letter of appeal must include the Billed Entity Name, the Form 471 Application Number, Billed Entity Number, and FCC Registration Number (FCC RN) from the top of your letter.
3. When explaining your appeal, copy the language or text from the Notification of Commitment Adjustment Letter that is the subject of your appeal to allow the SLD to more readily understand your appeal and respond appropriately. Please keep your letter specific and brief, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.
4. Provide an authorized signature on your letter of appeal.

If you are submitting your appeal electronically, please send your appeal to appeals@sl.universalservice.org using your organization's e-mail. If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal, Schools and Libraries Division, Dept. 125 - Correspondence Unit, 100 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure" posted in the Appeals Area of the SLD section of the USAC web site or by contacting the Client Service Bureau at 1-888-203-8100. We strongly recommend that you use the electronic appeals options.

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC web site, or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

FUNDING COMMITMENT ADJUSTMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Adjustment Report (Report) for the Form 471 application cited above. The enclosed Report includes the Funding Request Number(s) from your application for which adjustments are necessary. Immediately preceding the Report, you will find a guide that defines each line of the Report.

The SLD is also sending this information to your service provider(s) for informational purposes. If USAC has determined the service provider is also responsible for any rule violation on these Funding Request Numbers, a separate letter will be sent to the service provider detailing the necessary service provider action.

Please note that if the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount. Please note the Funding Commitment Adjustment Explanation in the attached Report. It explains why the funding commitment is being reduced. Please ensure that any invoices that you or your service provider submit to USAC are consistent with program rules as indicated in the Funding Commitment Adjustment Explanation. If the Funds Disbursed to Date amount exceeds your Adjusted Funding Commitment amount, USAC will have to recover some or all of the disbursed funds. The Report explains the exact amount (if any) the applicant is responsible for repaying.

Schools and Libraries Division
Universal Services Administrative Company

cc: Oliver Newman
Solid IT Networks, Inc.

A GUIDE TO THE FUNDING COMMITMENT ADJUSTMENT REPORT

A report for each E-rate funding request from your application for which a commitment adjustment is required is attached to this letter. We are providing the following definitions for the items in that report.

FUNDING REQUEST NUMBER (FRN): A Funding Request Number is assigned by the SLD to each individual request in your Form 471 once an application has been processed. This number is used to report to applicants and service providers the status of individual discount funding requests submitted on a Form 471.

SERVICES ORDERED: The type of service ordered from the service provider, as shown on Form 471.

SPIN (Service Provider Identification Number): A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support mechanisms. A SPIN is also used to verify delivery of services and to arrange for payment.

SERVICE PROVIDER NAME: The legal name of the service provider.

CONTRACT NUMBER: The number of the contract between the applicant and the service provider. This will be present only if a contract number was provided on your Form 471.

BILLING ACCOUNT NUMBER: The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on your Form 471.

SITE IDENTIFIER: The Entity Number listed in Form 471, Block 5, Item 22a. This number will only be present for "site specific" FRNs.

ORIGINAL FUNDING COMMITMENT: This represents the original amount of funding that SLD had reserved to reimburse you for the approved discounts for this service for this funding year.

COMMITMENT ADJUSTMENT AMOUNT: This represents the amount of funding that SLD has rescinded because of program rule violations.

ADJUSTED FUNDING COMMITMENT: This represents the adjusted total amount of funding that SLD has reserved to reimburse for the approved discounts for this service for this funding year. If this amount exceeds the Funds Disbursed to Date, the SLD will continue to process properly filed invoices up to the new commitment amount.

FUNDS DISBURSED TO DATE: This represents the total funds that have been paid to the identified service provider for this FRN as of the date of this letter.

FUNDS TO BE RECOVERED FROM APPLICANT: This represents the amount of improperly disbursed funds to date as a result of rule violation(s) for which the applicant has been determined to be responsible. These improperly disbursed funds will have to be recovered from the applicant.

FUNDING COMMITMENT ADJUSTMENT EXPLANATION: This entry provides an explanation of the reason the adjustment was made.

**Funding Commitment Adjustment Report for
Form 471 Application Number: 421086**

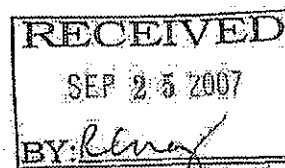
Funding Request Number:	1160625
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143024617
Service Provider Name:	Solid IT Networks, Inc.
Contract Number:	IC-05
Billing Account Number:	
Site Identifier:	141224
Original Funding Commitment:	\$2,299,352.94
Commitment Adjustment Amount:	\$2,299,352.94
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$2,299,352.94
Funds to be Recovered from Applicant:	\$2,299,352.94

Funding Commitment Adjustment Explanation:

After a thorough review, it was determined that the funding commitment for this request must be reduced by \$2,299,352.94. During the course of an audit it was determined that funding was provided for ineligible Basic Maintenance of Internal Connections. The program rules state that Basic Maintenance services are eligible for funding if they are a component of a maintenance agreement/contract for an eligible service or product, which must specifically identify the eligible products or service covered, including product name, model number, and location. The requested Basic Maintenance of Internal Connections is determined to be ineligible because your maintenance agreement/contract did not specify the location of eligible products or services for which the Basic Maintenance was to be provided. The pre-discount cost associated with these items is \$2,705,121.11, respectively, for a total ineligible amount of \$2,705,121.11. At the applicant's 85 percent discount rate this resulted in an improper commitment of \$2,299,352.94. FCC rules provide that funding may be approved only for eligible products and/or services. The USAC web site contains a list of eligible products and/or services. See the web site, www.universalservice.org/sl/about/eligible-services-list.aspx for the Eligible Services List. Therefore, USAC has determined that both the applicant and the service provider is responsible for this rule violation. Accordingly, the commitment has been reduced by \$2,299,352.94 and if the recovery of improperly disbursed funds is required USAC will seek recovery from both the applicant and the service provider.

**PLEASE SEND A COPY OF THIS PAGE WITH YOUR
CHECK TO ENSURE TIMELY PROCESSING**

Rose Chavez
ALDINE INDEP SCHOOL DISTRICT
1617 Lauder Road
Houston, TX 77039 3028



Waiver Exhibit D



Aldine Independent School District
Broad Prize 2004 and 2005 National Finalist

*Producing the
Nation's Best*

October 30, 2007

Steve Casavant
Letter of Appeal
Schools and Libraries Division
Division, Dept. 125 - Correspondence Unit
100 South Jefferson Road
Whippany, NJ 07981

RE: Notification to Appeal to Commitment Adjustment Letter

Contact person: Mardee Barnett, 1617 Lauder Road, Houston, Texas, 77039
(281)985-7172, (281)985-6166, mbarnett@aldine.k12.tx.us

Billed Entity Name:	Aldine ISD	FCC Registration #:	0011612090
Form 471 Application #:	421086	Funding Year:	2004
Billed Entity Number:	141224	Applicant's Form Identifier:	IC-05

Dear Mr. Casavant,

This is a notification to appeal the Commitment Adjustment Letter dated September 19, 2007. To the best of our knowledge, we complied with all rules and regulations and the documentation was correct. The district's application passed the PIA, and although the descriptive information in the ESL was changed there was no specific notation highlighting that change. It is the district's belief that if that descriptive change were critical to funding there should have been such a notation in the description and the issue should have been identified through the PIA. We would like to appeal USAC's decision to recover \$2,299,352.94 and request you reconsider the commitment adjustment.

The Eligible Service List (ESL) dated on October 18, 2002, states:

Technical Support is only eligible if it is a component of a maintenance agreement/contract for an eligible service or product, and it must specifically identify the eligible products or service covered by the contract.

This ESL was used during the planning stages for the 2003 and 2004 rate applications.

On October 10, 2003, SLD released a new eligible services list that states:

Basic Maintenance services are eligible for funding if they are a component of a maintenance agreement/contract for eligible service or products, which must specifically identify the eligible products or service covered, including product name, model number, and location.

In reviewing the new rules, stated on page 1, paragraph 4, "Some eligibility information in this List is a change from prior years and applies to products and service funding requests for Funding Year 2004 and later years. A notation to this effect is provided in the

descriptive information for relevant entries." We could not find where SLD noted these changes.

We have carefully reviewed our internal processes for this particular year. Aldine underwent major staff changes in the 2003 and 2004 funding years, including the departure of the director and his two employees who were responsible for the 2004 application.

SLD established Program Integrity Assurance Team, or PIA Team, to review applications very carefully to be sure we comply with these rules. Aldine was selected for a PIA review for 2004 and our application passed the PIA team's close scrutiny. SLD is responsible for making sure that the discounts applicants receive are for eligible services provided to eligible entities for eligible uses, according to FCC rules. Our Item 21 Attachment submission, which is required as part of the Form 471, was reviewed by PIA. Included in the submission was our contract for basic maintenance. We now acknowledge that it met the 2003 ESL, but not the 2004 ESL. Since it was funded, we believed that we had met the required standards and had the critical items needed to proceed. Had PIA review found us to be out of compliance, we would have complied as we did in the 2005 PIA review when "location" came into question. We immediately had our team of engineers perform a walk-through inventory and submitted it for review which was then funded.

We agree with the KPMG auditors and USAC that in 2004 we did not meet all requirements for tracking of inventory including location of the covered equipment in our inventory controls, and apologize for the oversight. As stated above, key personnel responsible for inventory documentation, e-rate applications and approval of all filings were no longer available. Aldine ISD corrected the error in the following years, 2005 and 2006. An inventory walk-through which included a physical count and location of all equipment was completed to meet SLD guidelines. In 2007, an asset tracking system for all network equipment was implemented and is maintained to include all required information: make, model, serial numbers, location, sub-location, asset tag number, and system name; as well as tracking all transfers, replacements, and end of life equipment.

Aldine has always made a tremendous effort to meet SLD requirements and has made tracking our inventory a key priority. We serve a low-income community, as our 88% discount reflects, and returning \$2.3 million would be a severe hardship. We respectfully request that you reconsider any commitment adjustment requested by USAC to recognize that our inventory met 2 out of the 3 USAC requirements in the year in question. We would like to respectfully state that we consider the PIA review to be a helpful intervention and would have immediately corrected any deficiencies documented in that review. None were found, leading us to believe that our application was correct and fundable.

Through the guidance from Cynthia Beach of USAC and the auditors of KPMG, you have helped us to improve Aldine's inventory tracking system, which has become an essential part of our technology department's processes. Thank you for considering our acknowledgement of error and request to re-evaluate the commitment adjustment.

Sincerely,



Mardee Barnett
Executive Director of Technology Services

Waiver Exhibit E

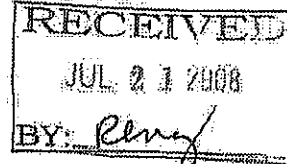


Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2004-2005

July 17, 2008

Mardee Barnett
Aldine Independent School District
1617 Lauder Road
Houston, TX 77039



Re: Applicant Name: ALDINE INDEP SCHOOL DISTRICT
Billed Entity Number: 141224
Form 471 Application Number: 421086
Funding Request Number(s): 1160625
Your Correspondence Dated: October 30, 2007

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2004 Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1160625
Decision on Appeal: **Denied**
Explanation:

- During the appeal review process, it was determined that the documentation submitted by the Aldine Independent School District identified the products and the physical location of \$521,734.63 worth of equipment. While the documents you submitted on February 28, 2008, that are titled "Aldine Independent School District Network Inventory by Loc/Com" indicate the specific location of equipment within the Aldine Independent School District, your May 28, 2008 email states that "the service provider did not track location either at that time." Even after consultation with the Service Provider, you are not able to provide support verifying the actual maintenance that was performed; therefore, the appeal is denied since the issue of the contract not listing the location of the contracted equipment or the document retention required by program rules has not been satisfied.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

Waiver Exhibit F



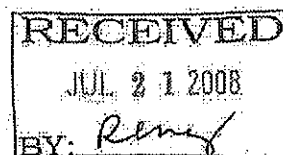
Schools & Libraries Division

Demand Payment Letter

Funding Year 2004: 7/01/2004 - 6/30/2005

July 18, 2008

**Mardee Barnett
ALDINE INDEP SCHOOL DISTRICT
1617 Lauder Road
Houston, TX 77039 3028**



**Re: Form 471 Application Number: 421086
Funding Year: 2004
Applicant's Form Identifier: IC-05
Billed Entity Number: 141224
FCC Registration Number: 0011612090
SPIN Name: Solid IT Networks, Inc.
Service Provider Contact Person: Oliver Newman**

You were previously sent a Notification of Commitment Adjustment Letter informing you of the need to recover funds for the Funding Request Number(s) (FRNs) listed on the Funding Commitment Adjustment Report (Report) attached to the Notification of Commitment Adjustment Letter. A copy of that Report is attached to this letter. Immediately preceding the Report, you will find a guide that defines each line of the Report.

The balance of this debt is due within 30 days from the date of this letter. Failure to pay the debt within 30 days from the date of this letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." Please see the "Informational Notice to All Universal Service Fund Contributors, Beneficiaries, and Service Providers" at <http://www.universalservice.org/fund-administration/tools/latest-news.aspx#083104> for more information regarding the consequences of not paying the debt in a timely manner.

If the Schools and Libraries Division (SLD) has determined that both the applicant and the service provider are responsible for a program rule violation, then, pursuant to the Order on Reconsideration and Fourth Report and Order (FCC 04-181), the SLD will seek recovery of the improperly disbursed amount from BOTH parties and will continue to seek recovery until either or both parties have fully paid the debt. If the SLD has determined that both the applicant and the service provider are responsible for a program rule violation, this was indicated in the Funding Commitment Adjustment Explanation on the Funding Commitment Adjustment Report.

If the SLD is attempting to collect all or part of the debt from both the applicant and the service provider, then you should work with your service provider to determine who will be repaying the

debt to avoid duplicate payment. Please note, however, that the debt is the responsibility of both the applicant and service provider. Therefore, you are responsible for ensuring that the debt is paid in a timely manner.

Please remit payment for the full "Funds to be Recovered from Applicant" amount shown in the Report. To ensure that your payment is properly credited, please include a copy of the Report with your check. Make your check payable to the Universal Service Administrative Company (USAC).

If sending payment by U. S. Postal Service or major courier service (e.g. Airborne, Federal Express, and UPS) please send check payments to:

Universal Service Administrative Company
1259 Paysphere Circle
Chicago, IL 60674

If you are located in the Chicago area and use a local messenger rather than a major courier service, please address and deliver the package to:

Universal Service Administrative Company
Lockbox 1259
540 West Madison 4th Floor
Chicago, IL 60661

Local messenger service should deliver to the Lockbox Receiving Window at the above address.

Payment is due within 30 days from the date of this letter.

Complete program information is posted to the SLD section of the USAC web site at www.universalservice.org/sl/. You may also contact the SLD Technical Client Service Bureau by e-mail using the "Submit a Question" link on the SLD web site, by fax at 1-888-276-8736 or by phone at 1-888-203-8100.

Universal Service Administrative Company
Schools and Libraries Division

cc: Oliver Newman
Solid IT Networks, Inc.

A GUIDE TO THE FUNDING COMMITMENT ADJUSTMENT REPORT

A report for each E-rate funding request from your application for which a commitment adjustment is required is attached to this letter. We are providing the following definitions for the items in that report.

FUNDING REQUEST NUMBER (FRN): A Funding Request Number is assigned by the SLD to each individual request in your Form 471 once an application has been processed. This number is used to report to applicants and service providers the status of individual discount funding requests submitted on a Form 471.

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CONTRACT NUMBER: The number of the contract between the applicant and the service provider. This will be present only if a contract number was provided on your Form 471.

BILLING ACCOUNT NUMBER: The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on your Form 471.

SITE IDENTIFIER: The Entity Number listed in Form 471, Block 5, Item 22a. This number will only be present for "site specific" FRNs.

ORIGINAL FUNDING COMMITMENT: This represents the original amount of funding that SLD had reserved to reimburse you for the approved discounts for this service for this funding year.

COMMITMENT ADJUSTMENT AMOUNT: This represents the amount of funding that SLD has rescinded because of program rule violations.

ADJUSTED FUNDING COMMITMENT: This represents the adjusted total amount of funding that SLD has reserved to reimburse for the approved discounts for this service for this funding year. If this amount exceeds the Funds Disbursed to Date, the SLD will continue to process properly filed invoices up to the new commitment amount.

FUNDS DISBURSED TO DATE: This represents the total funds that have been paid to the identified service provider for this FRN as of the date of this letter.

FUNDS TO BE RECOVERED FROM APPLICANT: This represents the amount of improperly disbursed funds to date as a result of rule violation(s) for which the applicant has been determined to be responsible. These improperly disbursed funds will have to be recovered from the applicant.

FUNDING COMMITMENT ADJUSTMENT EXPLANATION: This entry provides an explanation of the reason the adjustment was made.

Funding Commitment Adjustment Report
Form 471 Application Number: 421086

Funding Request Number:	1160625
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143024617
Service Provider Name:	Solid IT Networks, Inc.
Contract Number:	IC-05
Billing Account Number:	
Site Identifier:	141224
Original Funding Commitment:	\$2,299,352.94
Commitment Adjustment Amount:	\$2,299,352.94
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$2,299,352.94
Funds to be Recovered from Applicant:	\$2,299,352.94

Funding Commitment Adjustment Explanation:

After a thorough review, it was determined that the funding commitment for this request must be reduced by \$2,299,352.94. During the course of an audit it was determined that funding was provided for ineligible Basic Maintenance of Internal Connections. The program rules state that Basic Maintenance services are eligible for funding if they are a component of a maintenance agreement/contract for an eligible service or product, which must specifically identify the eligible products or service covered, including product name, model number, and location. The requested Basic Maintenance of Internal Connections is determined to be ineligible because your maintenance agreement/contract did not specify the location of eligible products or services for which the Basic Maintenance was to be provided. The pre-discount cost associated with these items is \$2,705,121.11, respectively, for a total ineligible amount of \$2,705,121.11. At the applicant's 85 percent discount rate this resulted in an improper commitment of \$2,299,352.94. FCC rules provide that funding may be approved only for eligible products and/or services. The USAC web site contains a list of eligible products and/or services. See the web site, www.universalservice.org/si/about/eligible-services-list.aspx for the Eligible Services List. Therefore, USAC has determined that both the applicant and the service provider is responsible for this rule violation. Accordingly, the commitment has been reduced by \$2,299,352.94 and if the recovery of improperly disbursed funds is required USAC will seek recovery from both the applicant and the service provider.

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CHECK TO ENSURE TIMELY PROCESSING**